IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.3359 OF 2004

Shri Siddram Kalappa Uttare, .. Applicant.

Vs

State of Maharashtra, .. Respondent

Mr. Milind Deshmukh, for the applicant.

Mr S.R.Shinde, APP for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 16th AUGUST, 2004.

PC:

1. Heard Mr.Deshmukh, learned counsel for the applicant and Mr.Shinde, learned A.P.P for the respondent.

2. This application is filed by the applicant for being released on bail in C.R.No.34/04 registered at Natepute police station under section 376 and 506 of Indian Penal Code. The occurrence took place on 3.7.04 at 8-8.30 pm. Mr Deshmukh, learned counsel for the applicant, invited my attention to the medical certificate of prosecutrix-Manisha and submitted that there were no signs of resistance on the person of the prosecutrix. He further submitted that even if the allegations made by the prosecutrix in her statement are taken as true, the material on record show that it was a case of consent. I would not like to comment upon the submissions of Mr Deshmukh at this stage and express any

opinion asto whether or not it was a case of consent. A perusal of the statement of the prosecutrix shows that her clothes were removed including her blouse. She also allegedly made an attempt to shout for help. Considering that, I examined the medical certificate of the prosecutrix and other material place before me. The medical evidence does not show the signs of resistance. The clothes of the prosecutrix were not found torn. Keeping that in view and considering the overall facts and circumstances of the case, I am inclined to enlarge the applicant on bail.

3. The applicant is directed to be enlarged on bail on his furnishing a personal bond of Rs.15,000/-with one or two sureties of the like amount to the satisfaction of the trial Court subject to the condition that he shall report the concerned police station on every Wednesday and Saturday between 10 am and 11 am for a period of three months from the date of his release and thereafter on every Saturday between 10 and 11 am until the conclusion of his trial.

. While allowing this application, I shall not be understood to have expressed any opinion on merits of the case. The Sessions Court shall decide the case uninfluenced by the observations made in this order.

(D.B.BHOSALE, J.)